

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ORIGINAL

CHARLES RHOADS	:	Civil Action
Petitioner,	:	05-130 E
VS.	:	
	:	
RAYMOND SOBINA, WARDEN;	:	
THE DISTRICT ATTORNEY OF THE	:	
COUNTY OF PHILADELPHIA; THE	:	
ATTORNEY GENERAL OF THE	:	
STATE OF PENNSYLVANIA,	:	
Respondents,	:	

PETITION FOR FEDERAL
WRIT OF HABEAS CORPUS

NOW COMES INTO COURT, CHARLES RHOADS, Pro-Se, and Hereby Petitions this Honorable Court for a Writ of Habeas Corpus, Ordering the Respondents to Certify to the Cause of his Continued Detention in this STATE Facility, that said Detention be Considered Illegal and without cause, and that this Court Enter an Order for his Immediate Release, and as Grounds Therefore Respectfully Asserts the Following in Support of:

1. The Petitioner is Illegally held in the Custody, Confinement, and Restraint of RAYMOND SOBINA, at S.C.I. FOREST, in Forest C.O., PA.

2. The Petitioner Contends that His Liberty Interest is at stake, as he is being held against his will by the Superintendent of said Institution, which is against the United States Constitution Amendment 14, and has a Right to Immediate Discharge from their Custody.

3. The Petitioner States that he was Previously Arrested in June of 1992, and Pled Guilty to Aggravated Assault at CP#1150-9207, and Robbery at CP#4393-9304, to a term of 2½ to 10yrs, on 3-31-94.

4. For these two cases I was Paroled August 3, 1996, and returned as a Violator on August 4, 1999, and Reparoled on March 19, 2000.

5. I was then Arrested on June 27th 2000, for the Current Charges of having Drug Paraphernalia (a Misdemeanor), and Criminal Conspiracy (for Drugs in the house & sales, a Felony).

6. I was brought to Court with my Attorney ALLAN SAGOT, Esq., Three Parkway, Suite 1300; 16th & Cherry Streets; Phila., PA 19102-1312, at Case #CP 3902, and Convicted on said Charges on 9-21-01.

7. I got Sentenced on 11-9-01, by Justice EUGENE MALER, at the Criminal Justice Center, 1301 Filbert St. Phila., PA 19107, to a term of 6 to 12 Months for the Drug Paraphernalia, and a Term of 5 to 10 years, for the Criminal Conspiracy.

8. On the same day we Appealed the Sentence, which was at Superior Court # EDA 3309 2001.

9. My Direct Appeal was Granted on December 30th 2003, and Remanded for Resentencing.

10. On or about January 3, 2004, the Commonwealth Appealed the Superior Courts Decision, and was Denied on March 9th 2004.

11. Then on or Around March 12, 2004, the Commonwealth Appealed to the Supreme Court Case Number Unknown, and was Denied on 8-11-04.

12. I finally wend Down for Resentencing, as the Case was Postponed a few times, on December 30, 2004.

13. I was Resentenced on January 12, 2005, to a Term of 6 months to 12 months, on the Criminal Conspiracy, which was lowered from a FELONY, to a MISDEMANOR, AND GIVEN A COUNTY SENTENCE. SEE EXHIBIT #1. (Judges New Sentencing Statement).

13. I was then Held down in Philadelphia for 56days, and Questioned various Staff including the Counselor Mr. Mattoney, as to when I would be going back up state, and was told that my

paper work was lost in the Shuffle, and to be patient.

14. On Feburary 24th 2005, I was finally Returned to S.C.I. Forest, But Without any Court Papers.

15. Within a week of my return, I wrote various Staff Members here at Forest, the Counselor Mrs. Wallace and the Unit Manager Mr. Ennis, and Mrs. Shelly Thompson in the Records Room, and they all said that my Records were not Here, but they would contact Philadelphia County to get them transmitted. see EXHIBIT#2

16. The Petitioner States that he was told by a Captian at Philadelphia County that, He would have to be taken back to his home Prison to be released upon Completion of any sentence he has there, and then be Transferred Back down to Philadelphia County to do the rest of the Judges County Time.

17. The Petitioner States that he has been Reparoled on his old Number, and has Contacted the Probation & Parole Department in Camp Hill, and Harrisburgh Concerning his Release. see EXHIBIT#3

18. The Petitioner States that; I have a Total of 15 Months in on this Current Charge, (which when I got Resentenced only carried a Violation time of 3 to 6 Months, where I have a Total of 46 Months of Hit Time already Credited to both Numbers).

19. Therefor My New Sentence is already Served, and I have been Paroled on my Old Number, and should be entitled to my Liberty.

20. I have been in constant Contact with my Mother this whole time, and she has been talking to Several Persons in the Court house concerning my case, and the Transmittal of my Paperwork.

21. On April 18th 2005, My Mother with the Help of a Third party in the Prothonotary's Office had sent a Copy of EXHIBIT #1 here to the Records Department, and Despite My constant Requests, they are Still telling me that My Paperwork is Not Here, which I have a Copy of!

22. The Petitioner Avers that the State of Pa, and the D.O.C.'S Only Legitimate Interest in keeping this Petitioner Incarcerated, after his Resentencing, is Strictly Monetary, as the Facility is New, and the Delay is to Fill the Quota for this Quarter.

23. This Case is of Immediate Importance, as the Petitioners Constitutional Right to Freedom is at Stake, and Will Continue to be Ignored by the Entire Administrative Body Charged with the Illegal Confinement in these Proceedings.

24. Lastly the Petitioner States that there is No other Available State Remedy to Relieve him of this Continued Violation of his Constitutional Right to his Liberty, and if there is then the Process is Ineffective, as to the Immediate Importance, and if left Unchecked he and his Family will be apart for a Longer than Needed Period of time.

WHEREFORE: the Petitioner Prays that this Honorable Court take his Petition into Consideration, and GRANT a Writ of Habeas Corpus that would Order the Petitioner's Immediate Release, as he has been Reparoled on his Old Number, and His Conviction having been Reversed on Direct Appeal, and Resentenced to a County Term of 6 to 12 Months, which is Fully Expired, or in the Alternative Release him from this State Facility, to be Sent to His County Sentence, or that he be brought before this Court without Delay and that the State be Made to Certify the Cause of the Illegal State Detention.

I hereby Certify to the Truth and Accuracy of the facts herein.

DATED: APRIL 28, 2005.

RESPECTFULLY SUBMITTED;


CHARLES RHOADS, #FS9383

P.O. BOX 945

Marienville, PA 16239

EXHIBIT#1

Charles Roads

COMMONWEALTH VS.

SUPPLEMENT TO:
INDICTMENT NO.

NAME, A/K/A, ADDRESS, ZIP CODE

YEAR, TERM & NO.

CP 01-04

THIS CASE INVOLVES NOS.

054171 TO

PP#744534

STATUS OF DEFENDANT

DOCKET IN CHRONOLOGICAL ORDER

(List Charge No. and follow with sentence - signed & dated by Judge)

PROCEEDING

DATE 1/12/05 TYPE Resentence COURTROOM 1007

COURT CLERK Armbruster COURT STENO. Guel

ADA John Sabatena DEF. COUNSEL Alan Sagot

CONT. CODE CONT. TO RM. ON (Date)

☐ B.W. ISSUED ☐ BAIL SUED OUT☐ B.W. WITHDRAWN ☐ NEW BAIL☐ SAME BAIL \$

PROCEEDING

DATE TYPE COURTROOM

COURT CLERK COURT STENO.

ADA DEF. COUNSEL

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CONT. CODE CONT. TO RM. ON (Date)

☐ B.W. ISSUED ☐ BAIL SUED OUT☐ B.W. WITHDRAWN ☐ NEW BAIL☐ SAME BAIL \$

Don Eugene E J Maier
 Not less than six (6) months
 nor more than twelve (12)
 months in the Phila County
 Prison to run consecutive to
 any sentence now serving

By the Court

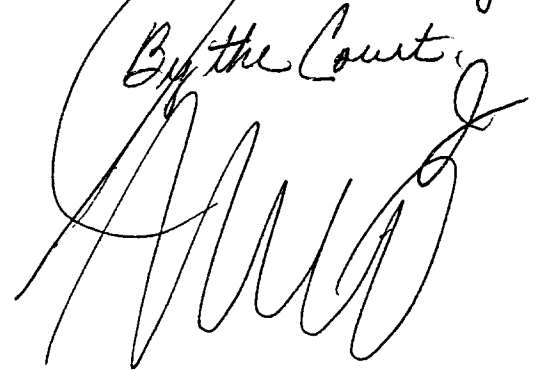


EXHIBIT #2

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
1. To: (Name and Title of Officer) <u>Records Room</u>	2. Date: <u>4-8-5</u>		
3. By: (Print Inmate Name and Number) <u>Charles Rhoads # FS-9383</u> <u>Charles Rhoads</u> Inmate Signature	4. Counselor's Name <u>MS Wallace</u>		
	5. Unit Manager's Name <u>MR ENIS</u>		
6. Work Assignment <u>MAINT.</u>	7. Housing Assignment <u>AB-1013</u>		
8. Subject: State your request completely but briefly. Give details. <u>I WROTE 2 REQUEST SLIPS CONCERNING MY CARP RECORDS</u> <u>3 weeks ago, whether or not they have been received</u> <u>or not. I would appreciate your time and help in</u> <u>this matter and quite thankful for a timely response</u> <u>THANKFULLY</u> <u>Charles Rhoads</u>			
9. Response: (This Section for Staff Response Only) <u>Mr Rhoads,</u> <u>I appreciate your continued patience.</u> <u>I have not received anything to date</u> <u>from Philadelphia. I will once again</u> <u>contact the courts for your sentence &</u> <u>update you, I promise.</u>			
To DC-14 CAR only <input type="checkbox"/>		To DC-14 CAR and DC-15 IRS <input type="checkbox"/>	

Staff Member Name

Shelley Thompson RS
Print Sign

Date

4-11-05

EXHIBIT #3



COMMONWEALTH OF PENNSYLVANIA
BOARD OF PROBATION AND PAROLE

1101 S. Front Street
Harrisburg, Pa. 17104 - 2519

NOTICE OF BOARD DECISION

NAME: FRANKLIN RHOADS
INSTITUTION: SCI - GREENSBURG

PAROLE NO: 26670
INSTITUTION NO: CE8822

AS RECORDED ON FEBRUARY 05, 2004 THE BOARD OF PROBATION AND PAROLE RENDERED THE FOLLOWING DECISION IN YOUR CASE:

FOLLOWING AN INTERVIEW WITH YOU AND A REVIEW OF YOUR FILE, AND HAVING CONSIDERED ALL MATTERS REQUIRED PURSUANT TO THE PAROLE ACT OF 1941, AS AMENDED, 61 P.S. § 331.1 ET SEQ., THE BOARD OF PROBATION AND PAROLE, IN THE EXERCISE OF ITS DISCRETION, HAS DETERMINED AT THIS TIME THAT: YOUR BEST INTERESTS JUSTIFY YOU BEING PAROLED/REPAROLED; AND, THE INTERESTS OF THE COMMONWEALTH WILL NOT BE INJURED. THEREFORE, YOU ARE GRANTED PAROLE/REPAROLE AT THIS TIME. THE REASONS FOR THE BOARD'S DECISION INCLUDE THE FOLLOWING:

YOUR ACCEPTANCE OF RESPONSIBILITY FOR THE OFFENSE(S) COMMITTED.

THE RECOMMENDATION MADE BY THE DEPARTMENT OF CORRECTIONS.

THE EXISTENCE OF DETAINERS FILED AGAINST YOU.

YOUR PARTICIPATION IN AND COMPLETION OF PRESCRIBED INSTITUTIONAL PROGRAMS.

YOUR REPORTED INSTITUTIONAL BEHAVIOR.

REPAROLE TO STATE DETAINER SENTENCE. WHILE CONFINED, YOU MUST PARTICIPATE IN PRESCRIBED PROGRAMS/DRUG AND ALCOHOL GROUPS AND AVOID MISCONDUCTS.

YOU SHALL ABIDE BY THE RULES AND REGULATIONS OF THE INSTITUTION--MANDATORY.

(CONTINUE ON PAGE 2)

PAROLE VIOLATION MAX DATE: 11/18/2007

CC: DISTRICT ATTORNEY

CLIENT COPY
FRANKLIN RHOADS CE8822
R. D. #10, BOX 10
GREENSBURG, PA

15601

Notice of Board Decision
PBPP 15(08/02) 1 of 2

EXHIBIT #3

march, 11, 2005

ON OR ABOUT OCT 27th 1993, I agreed to A plea agreement on A Felony Aggravated assault CP# 1150/9207 and A Felony Aggravated assault CP# 1580/9207 to A total term of 2½ to 10 yrs.

AGAIN ON 3-31-04 I entered A plea agreement to A Felony robbery CP# 4393 to A term of 1½ to 10 yrs running concurrent with my prior agreement of 2½ to 10 yrs. My controlling minimum date was 4-27-96, controlling maximum date was 3-31-04.

ON OR ABOUT August 3rd 1999 I was arrested on D.V.I and aggravated assault charges in which I was later found NOT GUILTY and was re-arrested on March 19th 2000.

ON OR ABOUT June 27th 2000 I was arrested on new charges. "Possession with intent to deliver, criminal conspiracy, manufacturing and possession of Drug PARAPHANILLIA". I was convicted of a felony criminal conspiracy and a misdemeanor possession of Drug PARAPHANILLIA. I was sentenced to A total term of 5½ to 11 yrs. 5 to 10 for criminal conspiracy 6 to 12 month for possession of Drug PARAPHANILLIA.

ON OR ABOUT November 17th, 2001, I was scheduled for A revocation hearing with the P.B.P.P. with my being in direct violation due to my new convictions, I received an 18 month HIT out of A maximum 24 month HIT due to my 5 to 10 yr sentence.

In May 2002 I was scheduled for review at which time I was seen. In June of 2002 I received an additional 18 month HIT for not discussing my new conviction as I was under appeal.

In December of 2003 I was interviewed for my second review. On April 14th 2004 I was Paroled to my new sentence of 5 to 10 yrs at which time I had a total of 46 months of HIT time in.

On or about December 30th 2003 my Appeal was granted and remanded for resentencing. On January 12th 2005 I was resentenced on my felony criminal conspiracy which was reduced to a misdemeanor criminal conspiracy. I received a 6 to 12 month sentence negating my previous felony conviction and sentence of 5 to 10 yrs. For criminal conspiracy, bringing my new sentence down to a total of 1 to 2 yrs.

According to title 37, new drug convictions, being sentenced to a maximum of 2 yrs, my original HIT should only carry 6 to 12 months.

Therefore I would like to request that my time be recalculated to reflect my new sentence and given time credit for the 46 months of HIT time, to be seen on the next available docket for immediate Parole.

Thank you.

Charles Rhoads

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CHARLES RHOADS, : Civil No. _____
 :
 Petitioner, :
 :
 VS. :
 :
 RAYMOND SOBINA, WARDEN; :
 :
 DISTRICT ATTORNEY OF THE :
 :
 COUNTY OF PHILADELPHIA, THE :
 :
 ATTORNEY GENERAL OF THE :
 :
 STATE OF PENNSYLVANIA, et al., :
 :
 Respondents, :

AFFIDAVIT

I, CHARLES RHOADS, Declare:

That, I am the Petitioner In the above Captioned Matter, and State that Everything Printed in the Petition/Motion is TRUE, and CORRECT, to the best of My Knowledge, and Ability.

I Further Declare, that Under the Penalty of Perjury, (28 U.S.C.A. §1746) that the Foregoing is True and Correct.

EXECUTED THIS: 28th Day of APRIL, 2005.



CHARLES RHOADS, PRO-Se
INSTITUTION #FS9383
P.O. BOX 945
Marienville, PA 16239


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CHARLES RHOADS	:	Civil No. _____
	:	
Petitioner,	:	
	:	
VS.	:	
	:	
RAYMOND SOBINA, WARDEN;	:	
THE DISTRICT ATTORNEY OF THE	:	
COUNTY OF PHILADELPHIA; THE	:	
ATTORNEY GENERAL OF THE	:	
STATE OF PHILADELPHIA	:	
Respondents,	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, Under the Penalty of Perjury (28 U.S.C.A. §1746), that a True and Correct Copy of this Foregoing Instrument has been Mailed, Postage Prepaid, and in Accordance with the "Prison Mail Box Rule" see (IN RE FLANAGAN 999 F.2d 753 (3rd Cir. 1993)), on this 28th Day of April, 2005, to ROBERT BARTH JR., U.S. CLERK OF COURT, U.S. DISTRICT COURT, WESTERN DISTRICT OF PA, U.S. POST-OFFICE & COURTHOUSE, 7TH & GRANT STREETS, PITTSBURGH, PA 15230, by Depositing the same in the Legal Mail Box at S.C.I. FOREST.

DATED: APRIL 28, 2005.



CHARLES RHOADS, Pro-Se
INSTITUTION #FS9383
P.O. BOX 945
Marienville, PA 16239

APRIL 28, 2005

U.S. DISTRICT COURT

Clerk of Courts

P.O. BOX 1820

Erie, PA 16507

IN RE: FEDERAL HABEAS CORPUS FEE

Dear Sirs;

Greetings, today I am writing in order to appraise the court of a few upcoming issues Concerning my case. First I would like to state I have contacted the Prison here inregard of sending the Filing Fee of \$5.00, off my Account. The weekend is comming, and I wanted to Mail this Petition, as I have a Constitutional Issue that Needs Immediate Attention from this Court. I would like to ask that this Petition be time Stamped, and a Copy sent back to me, and that as soon as the Prison Accouant here responds to my request to Take the Funds off my Account then they will send it to you, so Please allow me a Few Days to get the staff here to send the Money Order. Also I Did not know who has to be served, or if the Courts will serve the Respondents, and did not prepare a Certificate of Service.

SINCERELY;



CHARLES RHOADS, #FS9383

P.O. BOX 945

Marienville, PA 16239